MINUTES OF THE
JOINT CAPITAL FACILITIES & ADMINISTRATIVE SERVICES
APPROPRIATIONS SUBCOMMITTEE
MONDAY, JANUARY 23, 2006, 2:00 P.M.
RoomW025, West Office Building, State Capitol Complex

Members Present:	Sen. Bill Hickman, Committee Co-Chair Rep. D. Gregg Buxton, Committee Co-Chair Sen. Mike Dmitrich Sen. Peter Knudson Rep. Roger Barrus Rep. Ralph Becker Rep. DeMar "Bud" Bowman Rep. Stephen Clark Rep. Wayne A. Harper Rep. Fred R. Hunsaker Rep. Janice M. Fisher Rep. Michael T. Morley
Members Excused:	Pres. John Valentine
Staff Present:	Steve Allred, Fiscal Analyst Todd Wardrop, Fiscal Analyst Bonnie Brinton, Committee Secretary
Public Speakers Present:	D"Arcy Dixon Pignanelli, Executive Director, Department of Administrative Services Ken Hansen, Director, Division of Administrative Rules Ken Nye, Assistant Director, Division of Facilities Construction and Management Patricia Smith - Mansfield, Director, Division of Archives Robert W. Thompson, Administrator, Career Service Review Board Sen. Peter Knudson, LeRay McAllister Fund John Bennett, Project Manager, Utah Quality Growth Commission, Governor's Office of Planning and Budget Jeff Herring, Executive Director, Department of Human Resource Management Keith Stepan, Director, Division of Facilities Construction and Management

A list of visitors and a copy of handouts are filed with the committee minutes.

Co-Chair Hickman called the meeting to order at 2:15 p.m. and introduced staff members and expressed appreciation for their service.

Mr. Allred distributed a handout dated May 2005 and titled "Asking Key Questions: A Legislator's Guide to Using Performance Information."

1. Approve Minutes

Rep. Buxton pointed out an error in the minutes. This will be corrected and redistributed.

MOTION: Rep. Hunsaker moved to approve the minutes of January 19, 2006, as corrected. The motion passed unanimously with Sen. Knudson and Reps. S. Clark, Harper and Morley absent for the vote.

2. DAS and Career Service Review Board Appropriated Budget Increases/Issues

Mr. Steve Allred, Fiscal Analyst, informed the subcommittee members that in making motions they should consider two changes:

a. GRAMA fees.
b. Merging the "Finance-Mandated-Retirement" line item into the "Finance-Mandated" line item.

Mr. Allred discussed a table showing his recommendations for administrative appropriation increases. He stated that the subcommittee may wish to fund these with internal reallocations or to present a prioritized list to the Executive Appropriations Committee for their consideration. Further items will be considered by the subcommittee on Wednesday, January 25.

The Analyst pointed out a worksheet titled, "Joint Appropriations Subcommittee Prioritization of General/Education Fund Budget Changes." This worksheet includes headings for <u>Ongoing Items Not Funded within Subcommittee Allocation</u>, <u>One-time Items Not Funded within Subcommittee Allocation</u>, and <u>Increases/(Reductions) Funded within Subcommittee Allocation</u>.

D'Arcy Dixon Pignanelli, Executive Director, Department of Administrative Services (DAS), drew the attention of the subcommittee to the list of recommended building blocks in the budget and stated her support for the Analyst's recommendations.

a. Division of Administrative Rules - eRules Software Maintenance, Ken

Hansen, Director

Mr. Hansen stated that his division has two critical issues. The first is a staffing issue. The Governor's office has recommended funding of $8,300 to increase the salary of a highly skilled staff member. This Division has not had any turnover in staff for 12 years. The Director feels this raise is necessary to provide continuity of service. The second issue involves funding of $55,000 to work with state agencies in reducing errors in the rules they submit. Also, the division has permission from the Governor's office to request $10,000 for part-time staff to train and inform agencies regarding submitting rules to the division.

Mr. Allred recommends a $12,000 ongoing General Fund appropriation increase beginning in FY 2007 for eRules software maintenance.

b. Division of Facilities Construction and Management (DFCM) - Restore General funds for Administration, Ken Nye, Assistant Director

Mr. Nye stated that this division is not requesting an increase, only a shift in the funding source. He distributed a handout titled, "DFCM Administration Budget Funding Source History." The graph on the handout demonstrates the FY 2007 base budget as approved in S.B. 1 and the FY 2007 base budget with the change in funding source. This change has been recommended by GOPB and the Analyst. Ms. Pignanelli stated that this is her #1 funding priority.
The Analyst explained that due to revenue shortfalls, the 2002 Legislature shifted $3.1 million in this line item from the General Fund to project reserve funds. This was meant to be a temporary solution. In the 2005 General Session the Legislature restored $1.1 million. Mr. Allred recommends a final restoration of $1,092,000 in FY 2007. If the General Funds are restored, a concurrent reduction should be made to the Contingency Reserve Fund appropriation, since it would be a replacement.

c. Division of Archives - State Records Center Lease Increase, Patricia Smith - Mansfield, Director

The Director stated that the previous five-year lease at the State Records Center will expire at the end of FY 2006, and she is requesting $25,000 in ongoing funds in FY 2007 for a five-year extension. Ms. Smith-Mansfield and Director Keith Stepan responded to questions from subcommittee members regarding expenses related to the State Records Center. The storage facility provides temporary storage for state and local agencies. The five employees there process approximately 2,000 requests a month from the agencies. Mr. Stepan reported on the climate and security needs required to store these materials and stated that the cost to the State is less than if this service were privatized.

Ms. Pignanelli expressed appreciation to the staff of the subcommittee for their cooperation and service to DAS.

The Analyst recommends the Legislature appropriate $25,000 in ongoing funds in FY 2007 for a five-year extension. The five-year extension will include a provision for no cost increases during those five years, and will also include space renovations to convert no longer used office space to storage space, adding about five percent or 2,000 square feet.

d. Career Service Review Board - Grievance Hearings, Robert Thompson, Administrator

Mr. Thompson stated that the Board is requesting $15,000 in ongoing funds beginning in FY 2007 to help fund the increased cost of statutorily required hearings. He distributed a handout showing cases heard, hours spent, and the difference in cost from the current hearing officer fee of $37.50 per hour and the requested $50.00 per hour. Hearing officers are independent contractors who have expertise in this segment of the law. Current contracts expire at the end of FY 2006 and will need to be renewed.

The Analyst recommends the Legislature appropriate $15,000 in ongoing funds beginning in FY 2007 to help fund the increased cost of statutorily required hearings.

3. LeRay McAllister Fund - Sen. Knudson

Sen. Knudson presented the request for $5 million in one-time funding and $1 million in ongoing funding for the LeRay McAllister Fund. Co-Chair Buxton and Reps. Hunsaker, Becker and S. Clark and Sen. Dmitrich spoke in favor of this funding.

Rep. Harper expressed the concern of having too much public land which would decrease the tax income from private ownership.

John Bennett, Project Manager, Quality Growth Commission, Governor's Office of Planning and Budget, responded to questions from subcommittee members. He stated that the LeRay McAllister Fund money was used to acquire conservation easements and the needed restoration of public property. He clarified that more money goes into restoration than acquisition of new property.

MOTION: Rep. Hunsaker moved to recommend as a priority item to the Executive Appropriations Committee funding the LeRay McAllister Fund in the amount of $5 million in one-time funding and $1 million in ongoing funding. The motion passed with Reps. Barrus, Harper and Morley voting in opposition to the motion.

Rep. Becker stated a potential conflict of interest.

MOTION: Rep. Harper moved to approve the DAS and CSRB base budgets, the GRAMA appropriated fees recommended by the Analyst and the consolidated finance mandated line items. The motion passed unanimously with Rep. Hunsaker absent for the vote.

4. Debt Service Issues

Mr. Allred recommended the following actions:

1. Switch the appropriation of $17,164,300 from Uniform School Fund and use Income Tax instead. This is a technical correction because Uniform School Funds should only be used for public education, whereas income tax can be used for higher education. Senate Bill 1 (State Agency and Higher Education Base Budget Appropriations) appropriated the funds as follows:

From Uniform School Fund	17,164,300

If the Legislature approves the Analyst's recommendation, a supplemental appropriations bill would show as follows:

From Uniform School Fund	(17,164,300)
From Income Tax	17,164,300

2. The Analyst recommends the Legislature reallocate $6,151,800 from the Debt Service line item to the Capital Developments line item in FY 2006 as a one-time appropriation. The Analyst recommends the Legislature consider reallocating $5,500,000 from Debt Service to Capital Developments in FY 2007 as an ongoing appropriation only if the Legislature does not authorize general obligation bonding in the 2006 General Session.

   Mr. Allred advised caution with FY 2007 because at least one bonding proposal is currently being considered. S.B. 75 (U STAR Initiative) contains the bonding provisions for a new Life Science Research Center at Utah State University and a

Neuroscience Research Center at the University of Utah in the amount of $110,000,000.

3. The Analyst recommends the Legislature authorize an increased appropriation of $1,583,400 from the Centennial Highway Fund for debt service increases on highway projects. This amount is a combination of an increase of $6,216,400 for principal and a decrease of $4,633,000 for interest.

Co-Chair Hickman suggested the subcommittee wait to vote on these last two issues until more information is obtained.

MOTION: Rep. Morley moved to switch the appropriation of $17,164,300 from Uniform School Fund and use Income Tax instead. The motion passed unanimously with Sen. Dmitrich and Rep. Hunsaker absent for the vote.

5. Intent Language

Mr. Allred summarized the issues regarding intent language. He stated that in July, 2005, the Executive Appropriations Committee adopted the recommendations of a report from the Fiscal Analyst's Office. The report examined the legal foundations of intent language and made recommendations.

The finding of the report included:

- Intent language is legally binding as long as it doesn't conflict with statute.
- Intent language applies only to a single line item for a single year.
- Intent language is not an appropriation.
- Intent language that is repeated annually or used for more than one line item may be better placed in statute.
- Intent language should be clearly tied to and should concisely clarify an appropriation.
- Intent language making appropriations nonlapsing is better in supplemental bills than in future fiscal year bills.

Adopted recommendations included:

1. Review how nonlapsing balances have changed in the past five years.
2. Review whether there is a need for nonlapsing authority in advance of a fiscal year rather than on a supplemental basis.
3. Review prior-year intent language to determine whether any would be better

placed in statute.

Regarding nonlapsing intent language, the Analyst stated that as a default, authority to expend funds for any fiscal year expires at the end of the fiscal year. Unspent and unencumbered funds lapse back to the fund or account from which they were appropriated. Exceptions are granted either by statute or by intent language.

The Legislature grants nonlapsing funds for at least two reasons. First, they give an incentive to agency managers to be frugal since they can keep their unexpended balances. Second, to avoid stereotypical government end-of-year spending dashes in a "use it or lose it" environment.

Typically the Legislature grants nonlapsing authority through intent language in two ways. First, it may make "supplemental" action three to six months before the end of a fiscal year, identifying specific one-time projects for which nonlapsing funds can be used. The Budgetary Procedures Act provides clear guidelines for this type of authority. Agencies must submit a list of one-time projects for which nonlapsing authority will be granted.

Second, the Legislature may grant nonlapsing authority sixteen to eighteen months in advance of the end of a fiscal year. Utah law does not stipulate what agencies must do to receive this type of language nor does it provide guidelines for subcommittees to consider when debating this type of language.

Therefore as a matter of policy, the Analyst stated that he prefers nonlapsing language that is granted in supplemental action. He believes that granting nonlapsing authority nearer to the end of a fiscal year allows for better estimation of available balances and provides greater accountability for the potential uses of such balances.

Mr. Allred summarized the recommendations adopted by the Executive Appropriations Committee regarding how nonlapsing balances have changed in the past five years by agencies under this subcommittee.

Jeff Herring, Executive Director, Department of Human Resource Management (DHRM) clarified the changes proposed with this department.

Mr. Allred reviewed whether there is a need for nonlapsing authority in advance of a fiscal year rather than on a supplemental basis. He recommends the subcommittee adopt a policy of placing all routine "nonlapsing appropriation" intent language in supplemental appropriation bills. This means removing all such language from appropriation bills that deal with a future fiscal year. Some FY 2006 appropriations already received nonlapsing status through intent language in the 2005 General Session, so a repeat is not necessary in an FY 2006 supplemental bill. Obviously any intent language specifically tied to an FY 2007 appropriation should go in an FY 2007 appropriation bill. Under this policy, only two intent statements would currently be applicable to an FY 2007 appropriation.

The Analyst pointed out the only change would be in DAS - Finance and states:
However, funds provided for an actuary study of post-employment benefits which do not lapse shall be used for that purpose.

Ms. Pignanelli was asked to respond to this intent language issue and how it would affect her department. She stated that she understood the Analyst's recommendations and she gave an example of buying needed computers before funds lapsed after determining that other goals had been met.

Mr. Herring stated that he felt this issue was a policy decision for legislators to make.

The Co-Chairs agreed that further discussion was required on the intent language issue before a vote could be taken.

MOTION: Rep. Bowman moved to adjourn the meeting.

The meeting was adjourned at 4:05 p.m. by Co-Chair Hickman.

The minutes were reported by Bonnie Brinton.

Sen. Bill Hickman	Rep. D. Gregg Buxton
Committee Co-Chair	Committee Co-Chair